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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, : Case No. 2:17-cr-00184-JD-1  
:   
Plaintiff(s), : Philadelphia, Pennsylvania  
: October 12, 2018  
v. : 3:45 p.m.  
:   
YOUNIES BAYOUMY, :   
:   
Defendant(s). :   
.....

FILED

OCT 19 2018

KATE BARKMAN, Clerk  
By AL Dep. Clerk

TRANSCRIPT OF CONTINUANCE HEARING  
BEFORE THE HONORABLE JAN E. DUBOIS  
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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DH

1 (Call to Order of the Court.)

2 THE COURT: Good afternoon, everyone. Please be  
3 seated.

4 ALL: Good afternoon, Your Honor.

5 THE COURT: I call the case of the United States of  
6 America versus Younies Bayoumy, Criminal Number 17-184. The  
7 case is scheduled for trial to begin today. Defendant filed  
8 a motion, an unopposed motion for a 30-day continuance of the  
9 trial. I'll hear from Defense counsel.

10 MS. GAUGHAN: Your Honor, the Continuance Motion was  
11 filed because there's additional time that's required to  
12 attempt to resolve this non-trial. There's -- as the Court  
13 is well aware, there's some complex issues involved in this  
14 case and we're just finessing some negotiations with that  
15 regard. So I don't anticipate that we need an extended  
16 period of time. I know the Court has -- is very busy, so  
17 we'll certainly work around the Court's schedule, but that is  
18 the reason for the continuance. It is anticipated that this  
19 is going to resolve itself in a non-trial disposition with a  
20 (C) plea agreement.

21 THE COURT: I gather -- and I'm thinking of the  
22 order that I will be issuing. I gather that if there is a  
23 non-trial disposition, it will not be delayed until the date  
24 we finally select as a trial date.

25 MS. GAUGHAN: Yes, that's true.

1 THE COURT: And you'll report on that as soon as  
2 you've reached agreement --

3 MS. GAUGHAN: Yes.

4 THE COURT: -- if you do. If there is no non-trial  
5 disposition, I assume that you'll need certainly time to  
6 prepare for trial.

7 MS. GAUGHAN: Yes.

8 THE COURT: Do you need any additional  
9 investigation?

10 MS. GAUGHAN: No.

11 THE COURT: Do you need any additional pretrial  
12 motions?

13 MS. GAUGHAN: Possibly, yes, Your Honor, if it was  
14 to --

15 THE COURT: All right.

16 MS. GAUGHAN: -- result in a trial.

17 THE COURT: Well, we'll provide for that. I gather,  
18 and I'm going to include this in the order because there have  
19 been so many continuances, that the non-trial disposition,  
20 it's more complicated in this case because it implicates the  
21 claimed link or connection between Defendant's autism  
22 spectrum disorder, Asperger's syndrome and the crimes  
23 charged. Is that a correct statement?

24 MS. GAUGHAN: Well, Judge, I think it's part of our  
25 ongoing -- part of our, I guess, negotiation that certainly

1 is an accurate statement --

2 THE COURT: Okay.

3 MS. GAUGHAN: -- that it was definitely involved in  
4 the negotiating.

5 THE COURT: Do you agree, Ms. Rotella?

6 MS. ROTELLA: I do, Your Honor.

7 THE COURT: All right. Those are the only things I  
8 wanted to clarify. What we'll do now is pick a trial date  
9 and I'll colloquy the Defendant and then issue the order.

10 Unfortunately, the U.S. Attorney's Office has managed to  
11 keep me rather busy, particularly in November. Most of  
12 November and we've come up with some dates which -- Milan?

13 THE CLERK: Yes?

14 (Pause in proceedings.)

15 THE COURT: Okay. The first date when I'm clear is  
16 January 7th. Now, that doesn't mean you have to wait and I  
17 wanted to clarify that. I would hope that you'd be able to  
18 reach agreement because this has been ongoing for quite some  
19 time.

20 MS. GAUGHAN: Yes.

21 THE COURT: January 7th, 2018 (sic), is really the  
22 first available date. I didn't want to schedule this during  
23 the week after New Year's. It's a short week. I decided not  
24 to do that. Is January 7th convenient for counsel?

25 MS. ROTELLA: Actually, Your Honor, I do have



1 another trial that's listed that may actually go. Would you  
2 mind listing it for the 14th, this case for the 14th?

3 THE COURT: I wish I could. On the 14th, I have a  
4 case that I know will go to trial. It's a case involving a  
5 city police officer who was fired and the difference between  
6 the demand and the no offer is dramatic. As dramatic as I've  
7 ever seen and I'm sure that case will go to trial.

8 MS. ROTELLA: Well, then --

9 THE COURT: Let me just look.

10 MS. ROTELLA: It's okay to leave it on the 7th.

11 THE COURT: I think the 14th is unavailable.

12 MS. ROTELLA: The 7th is fine, Your Honor.

13 THE COURT: Are you sure, Ms. Rotella?

14 MS. ROTELLA: It will work itself out one way or the  
15 other, it will be fine.

16 THE COURT: I don't think the 14th will -- I don't  
17 see any possibility that that case will not proceed to trial.  
18 I've estimated it will take 5 to 7 days. I suspect because I  
19 haven't told you, the police officer fired his attorney and  
20 is -- or the former police officer, fired his attorney and is  
21 now proceeding pro se, so it might not take 5 to 7 days, it  
22 might take 10 to 14 days. Okay. Well, we'll leave it that  
23 date, but if that presents a conflict, we'll address it. I'm  
24 hopeful that the case will resolve by non-trial resolution  
25 and it's for that reason that I'm doing this.

1 All right. First, we'll colloquy the Defendant. Mr.  
2 Bayoumy, you've been through this before. We have a trial  
3 date today, but your attorney has filed a Motion for Trial  
4 Continuance. She needs more time to continue in her effort  
5 to negotiate a non-trial disposition of the case, a guilty  
6 plea. Do you understand that?

7 MR. BAYOUMY: Yes, Your Honor.

8 THE COURT: Do you agree with that?

9 MR. BAYOUMY: Yes, Your Honor.

10 THE COURT: The present Speedy Trial Act deadline is  
11 November 19th, 2018. Do you understand that?

12 MR. BAYOUMY: Yes, Your Honor.

13 THE COURT: The Speedy Trial Act provides that a  
14 case must be brought to trial within a certain number of days  
15 after the defendant's first appearance. Do you understand  
16 that?

17 MR. BAYOUMY: Yes, Your Honor.

18 THE COURT: In this case, indeed in all cases, there  
19 are extensions of that date because of motions and other  
20 pretrial proceedings and that's what occurred in this case.  
21 Do you understand that?

22 MR. BAYOUMY: Yes, Your Honor.

23 THE COURT: That's why the deadline is November 19th  
24 at present. Do you understand that?

25 MR. BAYOUMY: Yes, Your Honor.

1 THE COURT: I have authority under the Speedy Trial  
2 Act to continue the trial beyond the Speedy Trial Act  
3 deadline of November 19th, 2018, for reasons such as those  
4 advanced by your attorney, that is, to continue efforts to  
5 negotiate a non-trial disposition and failing that, to  
6 consider the additional time necessary to file additional  
7 pretrial motions and to prepare the case for trial. Do you  
8 understand that?

9 MR. BAYOUMY: Yes, Your Honor.

10 THE COURT: The first date on which the Court and  
11 counsel are available to try the case is Monday, January 7th,  
12 2019. Do you understand that?

13 MR. BAYOUMY: Yes, Your Honor.

14 THE COURT: In the event you reach an agreement with  
15 the Government, a guilty plea agreement, before then, we will  
16 conduct a guilty plea hearing at an earlier date. Do you  
17 understand that?

18 MR. BAYOUMY: Yes, Your Honor.

19 THE COURT: Do you have any objection to the  
20 continuance of the trial to January 7th, 2019?

21 MR. BAYOUMY: No.

22 THE COURT: Do you agree to that continuance?

23 MR. BAYOUMY: Yes, Your Honor.

24 THE COURT: Do you agree that the delay in bringing  
25 the case to trial between today, October 12th, 2018, and

1 Monday, January 7th, 2019, may be excluded in calculating the  
2 time within which the case must be brought to trial under the  
3 Speedy Trial Act? That was a long -- a very long sentence.  
4 In essence, it says do you agree that that delay in bringing  
5 the case to trial from today, October 12th, 2018, to Monday,  
6 January 7th, 2019, may be excluded in calculating the time  
7 within which the case must be brought to trial?

8 MR. BAYOUMY: I understand, Your Honor.

9 THE COURT: And do you agree?

10 MR. BAYOUMY: Yes, Your Honor.

11 THE COURT: And finally, do you agree to waive your  
12 Speedy Trial Act rights to the extent of that delay?

13 MR. BAYOUMY: Yes, Your Honor.

14 THE COURT: Fine. The motion is granted. The trial  
15 is continued and is specially listed to begin on January 7th,  
16 2019, at 10 a.m. in this courtroom. The estimated trial time  
17 is four to five days if it goes to trial. Is that still  
18 accurate, Ms. Rotella?

19 MS. ROTELLA: Yes, Your Honor.

20 THE COURT: All right. We have to schedule just a  
21 few other things. A report on trial status. By what date do  
22 you think you would be in a position to report on trial  
23 status, Ms. Gaughan?

24 MS. GAUGHAN: I think by the first week of November,  
25 Your Honor.



1 THE COURT: The first Monday in November is November  
2 5th. Do you want more time than that, November 12th? You  
3 tell me.

4 MS. GAUGHAN: That's fine -- why don't we do it  
5 November 12th just in an abundance of caution.

6 THE COURT: Fine. All right. Pretrial motions.  
7 You said when I questioned you earlier that there might be a  
8 need to file additional pretrial motions.

9 MS. GAUGHAN: There would be, Your Honor, if this  
10 went to trial, yes.

11 THE COURT: When do you propose filing them keeping  
12 in mind the report date on the trial status is November 12th?

13 MS. GAUGHAN: The following week.

14 THE COURT: Okay. November 19th. Responses --  
15 Thanksgiving falls in the following week, so we'll make it  
16 toward the end of that week. That will give you enough time,  
17 will it not, Ms. Rotella?

18 MS. ROTELLA: Are you talking about the first week  
19 in December then?

20 THE COURT: Well, pretrial motions are to be filed  
21 under the schedule November 19th.

22 MS. ROTELLA: Yes.

23 THE COURT: Ordinarily, I would order responses by  
24 November 26th, but part of the preceding week, the week of  
25 November 19th is Thanksgiving, so we'll give you until -- I

1 have a busy December as well. We'll give you a few extra  
2 days.

3 MS. ROTELLA: Thank you, Your Honor.

4 THE COURT: By Wednesday, November 28th; does that  
5 work?

6 MS. ROTELLA: Yes, Your Honor.

7 THE COURT: Fine. Are the -- is the motion or are  
8 the motions you think might be filed if there is to be a  
9 trial, will those motions involve a hearing or no?

10 MS. GAUGHAN: I believe so.

11 THE COURT: Well, then we'll schedule one right now.  
12 We're up to November 28th.

13 (Pause in proceedings.)

14 THE COURT: Friday, December 14th, does that work, 2  
15 p.m.?

16 MS. GAUGHAN: Yes.

17 MS. ROTELLA: Yes, Your Honor.

18 THE COURT: Voir dire questions, -- Milahn, voir  
19 dire questions, points for charge?

20 THE CLERK: It would be December 17th.

21 THE COURT: Responses by December 24th to any  
22 motion. Okay. Judging from the information you've shared  
23 with me today, I don't think we're going to go through this,  
24 but I want to schedule everything so we don't have to come  
25 back. All right. I'll grant the motion. The reasons will

1 be similar to the reasons advanced in the prior continuance  
2 motions. Is there anything else that we need to do? There  
3 will be a written order issued. I'll dictate it today.

4 MS. GAUGHAN: No, Your Honor. I don't --

5 THE COURT: It will probably go out Monday.

6 MS. GAUGHAN: -- think there's anything else.

7 THE COURT: Ms. Rotella?

8 MS. ROTELLA: No, Your Honor. Thank you.

9 THE COURT: All right. On that note, we're  
10 adjourned.

11 THE CLERK: All rise.

12 THE COURT: Defendant is remanded to the custody of  
13 the U.S. Marshals.

14 (Court concluded at 4:02 p.m.)

15 CERTIFICATE

16 I certify that the foregoing is a correct transcript from the  
17 electronic sound recording of the proceedings in the above-entitled  
18 matter.

19

20 /s/April J. Foga

October 17, 2018

21 April J. Foga, CET, CCR, CRCR

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